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Articles

Studia Iuridica Lublinensia vol. 32, 3, 2023
DOI: 10.17951/sil.2023.32.3.185-199

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The COVID-19 Pandemic and Elderly People's Rights to Social Security and Health Protection

Pandemia COVID-19 a prawa osób starszych do zabezpieczenia społecznego i ochrony zdrowia

ABSTRACT

The SARS-CoV-2 coronavirus pandemic brought to light certain deficiencies in the social security infrastructure which should guarantee social security for all Polish citizens while ensuring, in particular, the possibility of exercising the right to health protection and social services for functionally disabled people. The pandemic became a "detonator" revealing, both in the scientific and public discourses, problems connected with the effective exercise of the rights to social security and health protection vested in elderly people, including those with functional disabilities. The article notably focuses on two areas of social life in which compliance with fundamental rights related to the dignity of a human being is linked to the respect and observance of rights related to the functioning of a specific age group – people over 60 years of age. The pace of demographic changes is not without impact on the quality of life of elderly people. The article attempts at outlining the problems triggered by the demographic changes taking place in Polish society and at indicating the legal context, often related to the specific needs of senior citizens, or, more accurately, to the failure to satisfy these needs. The

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purpose is to shed light on the social dimension of respecting elderly people's rights to social support in the form of providing access to social security and health care institutions during the COVID-19 pandemic. The questions asked are: Are elderly people's rights to social security and adequate health protection respected in Poland? Did the outbreak of the COVID-19 pandemic improve or worsen the situation in Poland in this regard?

Keywords: social security; elderly people; respecting elderly people's rights; pandemic

INTRODUCTION

The problem of old age has been recently addressed with increasing attention, which is primarily due to the advanced ageing of Polish society. According to the Statistics Poland data, the population of Poland is declining. In 2002, it reached 38,218,531 people, and in 2021 – 37,907,704, which implies a drop of 310,827 people.[1] However, what is particularly important from the point of view of the conducted analyses is that there is a clear increase in the population of people of post-working age, along with a decrease in the number of people of pre-working age. It is projected that by 2035 the number of Polish people aged 60 or more will have reached 11,410,800, with the total estimated population number of 36,476,771. This means that elderly people will account for 31% of the entire Polish population. It is further estimated that in 2015–2050, the number of people representing this age group will grow by nearly 5 million.[2]

Considering that the two recent demographic booms will have entered the old age stage by the mid-21st century, the process of population ageing will accelerate, to a large extent, in two periods – namely, by the end of the second decade of the 21st century (the ageing of the 1950s baby boom), and between 2035 and 2050 (the ageing of the baby boom that occurred at the turn of the 1970s and 1980s), which is the last year included in the Statistics Poland projection.[3] Data shows that the number of elderly people is increasing. However, the COVID-19 pandemic clearly revealed that the social support system, along with respect for the rights of this social group to fully use social security and health protection benefits, has failed to keep up with the demographic changes.

The purpose of this article is to shed light on the social dimension of respecting elderly people's rights to social support in the form of providing access to social

[1] Główny Urząd Statystyczny, Bank Danych Lokalnych, https://bdl.stat.gov.pl/bdl/dane/podgrup/tablica (access: 5.12.2022).

[2] Główny Urząd Statystyczny, Bank Danych Lokalnych, *Prognoza ludności według płci i funkcjonalnych grup wieku*, https://bdl.stat.gov.pl/bdl/dane/podgrup/wymiary (access: 12.12.2022).

[3] Główny Urząd Statystyczny, *Prognoza ludności na lata 2014–2050*, Warszawa 2014, https://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5469/1/5/1/prognoza_ludnosci_na_lata____2014_-_2050.pdf (access: 5.8.2023), p. 132.

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security and health care institutions during the COVID-19 pandemic. The questions asked are: Are elderly people's rights to social security and adequate health protection respected in Poland? Did the outbreak of the COVID-19 pandemic improve or worsen the situation in this regard?

As part of the study, the analytical-comparative method was used,[4] based on which the analysed material served the purpose of identifying and explaining the most important processes and phenomena that are relevant to the topic of respecting elderly people's rights to social security and health protection, as well as establishing their significance for the problem under discussion. Desk research on elderly people's rights to social security and health protection, and literature on this subject, helped to answer the research questions.

AGEING OF POLISH SOCIETY AND ITS CONSEQUENCES

Old age will affect most people sooner or later. Nowadays, an increase is observed in the number of people aged over 60 in most economically developed countries. Europeans now live longer than ever before, which is due, among other issues, to progress in medicine, preventive health care and improved living conditions. The age profile of European societies is changing rapidly, with the proportion of people of working and pre-working age declining in the EU, and the number of people of post-working age increasing. As indicated in long-term projections, this trend will continue over the next few decades as the post-war baby boom generations retire.[5] Based on Eurostat data, the total population of the EU-27 will continue to grow until the late 2020s, peaking at 449.3 million between 2026 and 2029, followed by a slow decline to 441.9 million by 2050.[6] It appears significant, from the point of view of changes in the demographic processes that are taking place in Europe, and also in Poland, that the population of elderly people (defined here as those aged 65 or more) in the EU-27 will grow significantly, from 90.5 million at the beginning of 2019, to 129.8 million in 2050. Moreover, in the reference period, the number of people in the EU-27 aged 75–84 is expected to grow by 56.1%, and the number of people aged 65–74 by 16.6%. In addition, the latest

[4] S. Kamiński, *Jak filozofować? Studia z metodologii filozofii klasycznej*, Lublin 1989, pp. 158–159.

[5] Eurostat, *Ageing Europe – Statistics on Population Developments*, July 2020, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Ageing_Europe_-_statistics_on_population_developments#Older_people_.E2.80.94_global_developments (access: 12.12.2022).

[6] Eurostat, *Population on 1 January by Age Group and Sex*, https://ec.europa.eu/eurostat/databrowser/view/demo_pjangroup/default/table?lang=en (access: 12.12.2022).

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projections show that the number of people below 55 years of age in the EU-27 will have dropped by 13.5% by 2050.[7]

Similar processes can be observed in Poland. When analysing the Statistics Poland data for the past 11 years, two significant processes can be observed – a drop in the Polish population number and a growth in the percentage of elderly people in the overall population of Poland. In 2010, the total population number was 38,529,866 and it dropped to 37,907,704 in 2021. In 2010, the number of elderly people (aged 60 or more) in Poland reached 4,680,166, and in 2021 – 8,529,663, including 1,622,524 people aged 80 or more (compared to 1,327,981 such people in 2010).[8] In the context of the presented topic, the growth in the number of people aged 80 or more, i.e. those of the so-called "fourth age", appears particularly interesting.

1. Double ageing as a consequence of demographic changes in Poland

Double ageing, i.e. the growing percentage of people aged 80 or more in the population of elderly people, is a key problem for all institutions using social welfare resources as part of the system of support and work with elderly people with functional disability. The extending period of old age brings increasing internal differentiation of this life stage.

Initially, differences in the quality of life and lifestyle between the stage immediately preceding old age and its onset are hardly noticeable, but over time they intensify, leading to an increasingly common distinction between the so-called "third age" and "fourth age" (80 years of age or more).[9] Transition to the fourth age period is marked by a declining level of fitness and a more limited ability to function. While people in the third age group do not yet experience radical changes in their health status, mental well-being or family situation, these factors increasingly limit the abilities of those representing the fourth age group to function independently.[10] It is the increasing group of senior citizens aged 80 or more, who are highly likely to require support due to their functional disability, that prompts reflection on the condition of the support system resources for such people and the possibilities of ensuring the exercise of the right to social security.

[7] Eurostat, *Ageing Europe*...

[8] Główny Urząd Statystyczny, Bank Danych Lokalnych, *Prognoza ludności*...

[9] J.P. Ansah, R. Malhotra, N. Lew, C.-T. Chiu, A. Chan, S. Bayer, D.B. Matchar, *Projection of Young-Old and Old-Old with Functional Disability: Does Accounting for the Changing Educational Composition of the Elderly Population Make a Difference?*, "PLoS ONE" 2015, vol. 10(5).

[10] T.R. Fried, E.H. Bradley, C.S. Williams, M.E. Tinetti, *Functional Disability and Health Care Expenditures for Older Persons*, "Archives of Internal Medicine" 2001, vol. 161(21).

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2. The degree of satisfaction of functionally disabled elderly people's needs

Since functional disability, defined as the inability to perform daily activities on one's own and the need for third-party assistance to meet these daily needs,[11] is correlated with age, the prevalence of functional disability is higher among people in their fourth age than among people under 80. People aged 80 or more usually require assistance in performing activities requiring strength and physical fitness, such as shopping, cleaning their flat/house, preparing meals or traveling about outside their homes. In addition, there is also a growing proportion of people of fourth age who need help with basic activities such as hygiene, dressing, eating, moving around the house, etc.[12] Are these people's needs being met in accordance with their rights, for example, in the form of care services?

Unfortunately, according to the Supreme Audit Office's report, 19% of all Polish communes do not provide care services at the place of residence at all.[13] What is more, when a senior citizen is referred to a care facility, in the vast majority of cases this involves the communes' co-financing expenses for that stay. In annual terms, the surcharge level per person may exceed even several thousand zlotys, which is one of the reasons why elderly people with functional disabilities are not placed in care facilities.[14]

The data presented above shows that the state's obligations towards elderly people are not met. Indeed, it should be borne in mind that the obligation of public administration bodies to provide services in social welfare centres, also taking into account the availability of health care services adequate to the needs of the elderly and senile citizens, stems from the Constitution of the Republic of Poland.[15] This follows, first of all, from Articles 30 and 32 of the Polish Constitution, which stipulate that the inherent and inalienable dignity of the person shall constitute the source of freedoms and rights of persons and citizens, and also that all persons shall be equal before the law, shall have the right to equal treatment by public authorities, and may not be discriminated against in political, social or economic life for any

[11] Fundusze Europejskie, *Definicja osoby niesamodzielnej wraz ze stopniami niesamodzielności*, https://efs.mrips.gov.pl/__data/assets/pdf_file/0023/6971/13_definicja_osoby_niesamodzielnej.pdf (access: 10.12.2022).

[12] M. Kilian, *Funkcjonowanie osób w starszym wieku*, Warszawa 2020, pp. 230–233.

[13] Najwyższa Izba Kontroli, *Usługi opiekuńcze świadczone osobom starszym w miejscu zamieszkania*, 4.9.2018, https://www.nik.gov.pl/kontrole/P/17/043 (access: 21.11.2022).

[14] M. Giezek, R. Iwański, M. Kożybska, P. Zabielska, M. Paszkiewicz, K. Karakiewicz-Krawczyk, K. Flaga-Gieruszyńska, *Problem ponoszenia kosztów związanych ze starzeniem się społeczeństwa – analiza na przykładzie domów pomocy społecznej w gminie miejskiej Szczecin*, „Pomeranian Journal of Life Sciences" 2018, vol. 64(4), pp. 93–97.

[15] Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended), hereinafter: the Polish Constitution. English translation of the Constitution at https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm (access: 10.5.2023).

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reason whatsoever.[16] The provisions of Article 68 (3) of the Polish Constitution are also of an auxiliary character in this context. They refer to health protection, stipulating, among other notions, that public authorities shall ensure special health care to persons of advanced age.

The second major reason for the insufficient fulfilment by the social support system of the provisions stipulated in the Polish Constitution, in relation to elderly people, is the lack of sufficient infrastructure. By merely analysing the number of social welfare institutions, hospital wards dedicated to elderly people, and hospices – all operating in the period of the past 11 years as adopted in the analysis (2010–2021) – it turns out that this number is insufficient. In 2010, there were altogether 1,489 residential care facilities operating in Poland, 827 of which were social welfare centres. In the following years, the number increased and in 2020 there were 1,899 facilities of this type, including 871 social welfare centres.[17] However, it should be noted that these figures include not only social welfare institutions for elderly people, but also those for people with chronic somatic diseases and chronic

[16] In connection with the protection of elderly people's rights, including the right to social security and health protection, attention should also be drawn to the regulation contained in Article 31 (3) of the Polish Constitution, under which any limitation upon the exercise of constitutional freedoms and rights may be imposed only by statute, and only when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, health or public morals, or the freedoms and rights of other persons, but such limitations shall not violate the essence of freedoms and rights. Therefore, only the above-mentioned premises may restrict the exercise of the right to social security by elderly people (Article 67 of the Polish Constitution) and the right to health protection (Article 68 of the Polish Constitution). As regards the protection of human rights, see I. Hoffman, J. Kostrubiec, *Political Freedoms and Rights in Relation to the COVID-19 Pandemic in Poland and Hungary in a Comparative Legal Perspective*, "Białostockie Studia Prawnicze" 2022, vol. 27(2); M. Czuryk, *Restrictions on the Exercising of Human and Civil Rights and Freedoms Due to Cybersecurity Issues*, "Studia Iuridica Lublinensia" 2022, vol. 31(3), p. 34. Particularly evident is the restriction of the freedoms and rights of elderly people in cyberspace (among other issues, when it comes to remote contact with a specific public entity and thus using e-government tools), where it is precisely the public administration bodies that should ensure the cybersecurity of these people. Regarding e-administration, see I. Hoffman, M. Karpiuk, *E-administration in Polish and Hungarian Municipalities – a Comparative Analysis of the Regulatory Issues*, "Lex localis – Journal of Local Self-Government" 2022, vol. 20(3). To learn more about cybersecurity refer to M. Karpiuk, *The Local Government's Position in the Polish Cybersecurity System*, "Lex localis – Journal of Local Self-Government" 2021, vol. 19(3); idem, *The Organisation of the National System of Cybersecurity: Selected Issues*, "Studia Iuridica Lublinensia" 2021, vol. 30(2); idem, *Recognizing an Entity as an Operator of Essential Services and Providing Cybersecurity at the National Level*, "Prawo i Więź" 2022, vol. 42(4); idem, *The Legal Status of Digital Service Providers in the Sphere of Cybersecurity*, "Studia Iuridica Lublinensia" 2023, vol. 32(2); J. Kostrubiec, *The Position of the Computer Security Incidents Response Teams in the National Cybersecurity System*, "Cybersecurity and Law" 2022, vol. 8(2); U. Soler, *The World of New, Virtual Trends – Central Europe Societies Touched by COVID-19*, "European Journal of Transformation Studies" 2020, vol. 8(Suppl. 1), pp. 238–249.

[17] Bank Danych Lokalnych, *Placówki stacjonarnej pomocy społecznej*, https://bankdanych.io/644,placowki-stacjonarnej-pomocy-spolecznej (access: 11.12.2022).

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mental diseases, adults with intellectual disabilities, children and adolescents with intellectual disabilities, and people with physical disabilities. As regards geriatric wards, i.e. wards dedicated to elderly people, the situation is as follows: in 2010 there were 21 such wards in Poland with a total of 569 beds, and in 2021 there are 51 wards with a total of 1,408 beds. If these figures are presented in conjunction with data on the population of people aged 60 or more, i.e. defined in public statistics as elderly people, they will prove to be dramatically inadequate. In 2021, the population of elderly people, i.e. those aged 60 or more, reached 8,529,663, including 1,622,524 people aged 80 or more.

THE RIGHT TO SOCIAL SECURITY

1. The condition of institutional infrastructure in the area of social security and health protection

The Social Welfare Act of 12 March 2004,[18] and more specifically its Article 2 (1), stipulates that "social welfare is an instrument of the state's social policy aimed at enabling persons and families to overcome difficult life situations which they are unable to handle using their own powers, resources and opportunities", while Article 3 (1) states that "it supports persons and families in their efforts to meet their essential needs and enables them to live in conditions ensuring respect for human dignity". Such provisions mean that Polish citizens, whenever they face a difficult life situation, have the right to benefit from social assistance. While Article 7 of the above-mentioned Act does not expressly mention the category of elderly people as those to whom social assistance is provided, the legislator indicates that it is granted to persons and families in extraordinary circumstances, e.g. involving poverty, disability, long-term or serious disease, an accident or a crisis situation.

The demographic changes taking place in the Polish population, as described above, imply that as the population of elderly people continues to grow, the number of sick and disabled people in this group is also on the rise, and so is the need for both institutions and new ways of coping with problems in old age.[19] Disability at the end of human life is becoming a frequent phenomenon when a reduction in mortality is not accompanied by a reduction in morbidity in old age. The aforementioned process of double ageing is accompanied by the increasing prevalence of chronic diseases which, in consequence, triggers an increase in the number of elderly people experiencing

[18] Consolidated text, Journal of Laws 2021, item 2268, as amended.

[19] M. Adamczyk, A. Betlej, *Social Security in Ageing Societies in a Sustainable Development Perspective: The Analysis of Context Indicator of Ways of Organizing Life in Old Age in Poland*, "Journal of Security and Sustainability Issues" 2021, vol. 11(1).

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the effects of these diseases. For example, in the case of diabetes, which is one of the diseases frequently occurring among elderly people (similar to circulatory system diseases), a total of 10,160 deaths from this cause were recorded in Poland in 2020 among those aged 65 or more, while in the group of persons up to 64 years of age 2,000 deaths were recorded. As regards circulatory system diseases, 153,060 deaths were recorded in 2020 among people aged 65 or more, compared with 21,486 deaths in the group of persons up to 64 years of age.[20] The data presented here is intended to indicate the specific needs of elderly people in the context of social security and health protection, which require certain necessary resources, including infrastructure.

2. Implementation of care services and specialised care services during the COVID-19 pandemic

Care services and specialised care services constitute a specific form of social support for elderly people and, at the same time, the implementation of their right to social security. These services are a particularly important form of support for elderly people with functional disabilities. They are available to single persons who, due to their age or illness, or for other reasons, require the assistance of other persons, but are deprived of it. The implementation of such services is entrusted to a commune, which arises from the provision of Article 17 (1) (11) and (16) of the Social Welfare Act, whereby the legislator indicates the commune as an entity whose tasks include, among others, "the organisation and provision of care services, including specialised services, at the place of residence, excluding specialist care services for people with mental disorders", as well as "referring to a social welfare centre and incurring payment for the stay of commune residents in such centres".

Care services are understood as all those services which cover assistance in meeting daily living needs, hygienic care, nursing care prescribed by a doctor and, as far as possible, providing contact with the surrounding environment. Specialised care services are the services adjusted to specific needs resulting from the type of the disease or disability. They are provided by people who have completed specialised professional training.[21] Based on Statistics Poland data for 2020, persons benefiting from social assistance accounted for 2.8% of all people in the corresponding age group. It should be stressed that nearly 90% of those people benefit from care services.[22]

[20] Narodowy Instytut Zdrowia Publicznego, *Zdrowie w województwach i powiatach. Moduł interaktywny*, http://bazawiedzy.pzh.gov.pl/atlas (access: 10.11.2022).

[21] Ministerstwo Rodziny i Polityki Społecznej, *Usługi opiekuńcze i specjalistyczne usługi opiekuńcze*, https://www.gov.pl/web/rodzina/uslugi-opiekuncze-i-specjalistyczne-uslugi-opiekuncze (access: 13.12.2022).

[22] Główny Urząd Statystyczny, *Beneficjenci środowiskowej pomocy społecznej w 2020 r.*, 29.10.2021, https://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5487/6/10/1/beneficjenci_srodowiskowej_pomocy_spolecznej_w_2020_r..pdf (access: 13.12.2022).

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The COVID-19 pandemic has limited, to some extent, however, the possibility of using the above-mentioned forms of support. Based on Statistics Poland data, the number of beneficiaries of community social care services amounted to 1,589.3 thousand in 2020 and was by 186.4 thousand lower than in 2019.[23] In 2020, 86.6 thousand senior citizens benefited from care services, this number being by 7.0% lower than in the preceding year. In average terms, per every 1,000 elderly people, around 9 used care services.[24]

3. The SARS-CoV-2 coronavirus and the fulfilment of the need for closeness and the sense of security

From a psychological point of view, the epidemic is a very difficult time for seniors, especially given the consequences for their mental health and well-being. It is a period that, through a series of restrictions, particularly on interpersonal contacts, negatively affects the fulfilment of the need for closeness and the sense of security, which are very important to elderly people.[25] This concerns, notably, restrictions such as leaving the house only when absolutely necessary, i.e. shopping for grocery products, hygiene products or drugs. It should be remembered that, for elderly people, especially those in the later stages of old age, i.e. after the age of 80, such trips were often among the most basic forms of contact with the outside world. Additionally, elderly people affected by illnesses and disabilities were major recipients of social welfare services in the form of care services and specialised care services.[26] Problems with providing these services affected two groups:

− single or lonely people with functional disabilities, living in their own homes,

[23] Główny Urząd Statystyczny, *Sytuacja osób starszych w Polsce w 2020 r.*, Warszawa–Białystok 2021, https://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/6002/2/3/1/sytuacja_osob_starszych_w_polsce_w_2020_r.pdf (access: 5.8.2023, p. 55.

[24] *Ibidem*.

[25] M. Adamczyk, *Factors Influencing Ways of Organising Life in Old Age in the Context of Social Exclusion Risk: The Case of Poland*, "Entrepreneurship and Sustainability Issues" 2021, vol. 8(4), pp. 418–430. It should be stressed that security makes it possible to satisfy social needs (see M. Karpiuk, *The Provision of Safety in Water Areas: Legal Issues*, "Studia Iuridica Lublinensia" 2022, vol. 31(1), p. 82), but one of the most important stages of ensuring security is prevention. See M. Czuryk, *Activities of the Local Government During a State of Natural Disaster*, "Studia Iuridica Lublinensia" 2021, vol. 30(4), p. 122; N. Shamadiyah, A. Jayaputra, *Social Protection for the Elderly During the COVID-19 Pandemic*, [in:] *Proceedings of the International Conference on Social Science, Political Science, and Humanities (ICoSPOLHUM 2020)*, 2021; T. Christensen, *The Social Policy Response to COVID-19 – the Failure to Help Vulnerable Children and Elderly People*, "Public Organization Review" 2021, vol. 21; S.Z. Jamaluddin, F.Y. Wah, M.A. Taher, *COVID-19: A Preliminary Assessment on the Social Security Framework for an Aged Malaysia*, "Commonwealth Law Bulletin" 2021, vol. 47(1).

[26] M. Adamczyk, *Modele funkcjonowania osób starszych, w tym niesamodzielnych*, "Roczniki Nauk Społecznych" 2022, vol. 50(3), pp. 189–208.

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– elderly people staying in 24-hour care institutions.[27]

There are several reasons why elderly people were the most painfully affected by restrictions. The main reason was that this group is very numerous, which is due to the process of ageing of Polish society (as was widely discussed earlier), and the consequences of this process, among which double ageing, i.e. the growing share of senior citizens aged 80 or more in the overall population, is particularly worth noting. It is the latter group that includes major recipients of community care services, which is linked to the previously discussed specificity of the last phase of old age, i.e. the so-called fourth age.

The fact that there is a significant limitation of the possibility to use services in social welfare centres, including health services adequate to the needs of elderly and senile people, is indicated by the lack of possibilities to implement the provisions of the law finding its basis in the Polish Constitution. More specifically, multi-morbidity, which particularly affects people aged 80 or more, exposes them to the problem of limited access to infrastructure. Multi-morbidity means the co-existence of several diseases in one person. Polish people over 70 years of age generally suffer from three or four illnesses.[28] In this event, the shortage of geriatric and palliative care units, as well as hospices, clearly translates itself into the inability to properly exercise elderly people's right to security in the area of health care.

Statistics Poland data clearly points to the lack of infrastructure that would enable the full-scale implementation of care services in this field. There were 156 and 151 geriatric outpatient clinics operating in Poland in 2019 and 2020, respectively. Most of these were situated in the following provinces: Silesian (30 outpatient clinics), Lesser Poland (20) and Masovian (18), while the lowest number of such facilities was found in Warmian-Masurian, Holy Cross and Subcarpathia provinces (two facilities in each). Based on the available data, taking Subcarpathia Province as an example, there were 254.3 thousand senior citizens per one such outpatient clinic in 2020.[29] As regards the already mentioned geriatric wards, at the end of 2020, they had 1,045 beds that had been used to treat 21.9 thousand people over the year. Compared to the previous year, the number of beds in the wards in question decreased by 4.7% and the number of people treated fell by 32.7%.[30]

Due to, among other issues, the involutionary consequences of the ageing process, chronic diseases and difficult life situations, with which people cannot cope using their own strength and resources (e.g., death or disability of a spouse),

[27] Główny Urząd Statystyczny, *Sytuacja osób starszych w Polsce…*, p. 55; Główny Urząd Statystyczny, *Beneficjenci środowiskowej pomocy społecznej…*

[28] Z. Wojtasiński, *Eksperci: musimy dążyć do jak największej aktywizacji seniorów*, 17.11.2016, https://www.gazetaprawna.pl/wiadomosci/artykuly/994063,eksperci-musimy-dazyc-do-jak-najwiekszej-aktywizacji-seniorow.html (access: 12.12.2022).

[29] Główny Urząd Statystyczny, *Sytuacja osób starszych w Polsce…*, p. 45.

[30] *Ibidem*, p. 47.

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senior citizens require some of their basic needs to be met, and care intervention to be provided, by the state and welfare institutions. As can be inferred from the data presented for 2019–2020 (i.e., the period of the COVID-19 pandemic), elderly people were at risk of not having these needs met due to systemic shortages of staff (in 2020, there were 59.9 doctors per 10,000 people[31]) and places in institutions designated to provide such assistance (as was also already discussed).

A group of elderly people particularly affected by restrictions is the group of people staying in social welfare centres, whose dramatic experiences we could observe during the pandemic, and especially during its first wave.[32]

A social welfare centre should provide its residents with living, caring, supportive and educational services in the scope and forms resulting from the individual needs of the people staying in such a facility, along with the right to freedom, intimacy, dignity and the sense of security. Due care should also be taken to ensure their physical and mental fitness. In this context, restrictions concerning, among others, limited direct contact of residents with persons outside social welfare centres, the isolation of newly admitted residents, or limited opportunities to leave the centre, proved to be particularly difficult. These restrictions inhibited, in particular, the implementation of Article 30 of the Polish Constitution, which stipulates that the inherent and inalienable dignity of the person shall constitute the source of freedoms and rights of persons and citizens. This dignity is inviolable and it is the duty of public authorities to respect and protect it. As regards the above-discussed situation of elderly people, dignity is understood as a right of personhood that includes the values of a person's mental life and all values that define the subjective standing of an individual in society.[33]

Residents of social welfare centres display a varying degree of ability. Those who are mobile used to go out before the pandemic, taking walks or going on errands. Another category of residents is formed by those who, due to their health condition, were not aware that there had been an outbreak of the pandemic and did not quite understand why their relatives stopped visiting them, as due to the introduced restrictions, these rights were temporarily suspended. Many people understand that taking precautions was a necessity, but back then, at the beginning of the pandemic, probably few people realised how long the isolation period would last.

[31] Główny Urząd Statystyczny, Bank Danych Lokalnych, https://bdl.stat.gov.pl/bdl/dane/podgrup/tablica (access: 5.12.2022).

[32] Portal organizacji pozarządowych, *Instytucjonalna opieka nad seniorami w czasie pandemii – perspektywa mieszkańców DPS-ów*, 14.2.2021, https://publicystyka.ngo.pl/instytucjonalna-opieka-nad-seniorami-w-czasie-pandemii-perspektywa-mieszkancow-dps-ow (access: 12.12.2022).

[33] Articles 30 and 32 of the Polish Constitution.

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CONCLUSIONS

The purpose of this article was to shed light on the social dimension of respecting elderly people's rights to social support in the form of providing access to social security and health care institutions during the COVID-19 pandemic. The SARS-CoV-2 coronavirus and the attempts to counter it have highlighted a number of systemic weaknesses in the domestic model of long-term care and support for senior citizens, both able-bodied and, above all, those in need of assistance in daily functioning. The data presented illustrates the inefficiency of the system and the inability to provide the services guaranteed, for example, by the provisions of the Social Welfare Act. The scale of current problems results, to a large extent, from the previous system errors and negligence, overlapping with the problems and threats posed by the current situation. So, are elderly people's rights to social security and adequate health protection respected in Poland, and did the outbreak of the COVID-19 pandemic improve or worsen the situation in Poland in this regard?

It seems that there are clear-cut answers to both questions. Available data show that it is currently impossible to guarantee an adequate number of hospital beds and wards dedicated to elderly people, especially those aged 80 or more. The number of inpatient social welfare facilities, e.g. social welfare centres, is also far from sufficient. In the Polish society ageing context, according to demographic forecasts, we will become one of the oldest societies in Europe in the coming decades.[34] Therefore, such shortcomings in the infrastructure providing systemic support and care appear alarming.

At this point, it is worth paying attention not only to statistical life expectancy, but also to indicators of healthy life expectancy. In Poland, within the framework of projected life expectancy for people aged 65 or more, half of this time will be, statistically speaking, healthy life years, and half will be accompanied by certain activity limitations (for women 57%, and for men 48%).[35] This implies that, today, statistically speaking, quite a large proportion of elderly people are more or less seriously ill and should be able to exercise the right to support and assistance, as guaranteed by the applicable legal provisions. A marked increase in the percentage of this subcategory of elderly people in society is expected (from 4.4% in 2020 to 5.9% in 2030, 7.9% in 2035, and 9.5% in 2040).[36]

When discussing the issue of securing the rights and support for elderly people, including those who are senile and functionally disabled, one needs to be aware that this group is diverse in terms of age, health and fitness status, and other determinants of their lives. As the experience gathered during the COVID-19 pandemic

[34] Eurostat, *Ageing Europe*...

[35] Główny Urząd Statystyczny, Bank Danych Lokalnych, *Prognoza ludności według płci*....

[36] *Ibidem*.

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has revealed, both in Poland and abroad, the persons requiring the assistance of others are most at risk in the face of a pandemic and are most often subject to institutionalisation. They are also the most severely affected by restrictions on the exercise of their rights in the circumstances of an insufficient social security system and medical care. Demographic trends make the epidemic challenges even more serious in terms of scale in future decades, and we need to prepare for it, rather than merely reacting to the *status quo*.

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ABSTRAKT

Pandemia koronawirusa SARS-CoV-2 uwidoczniła braki infrastruktury zabezpieczenia społecznego, która powinna gwarantować bezpieczeństwo społeczne wszystkim obywatelom Polski, a w szczególny sposób powinna zabezpieczać możliwość korzystania z prawa do realizacji usług zdrowotnych i społecznych osobom niesamodzielnym. Pandemia stała się „detonatorem" ujawniającym w dyskursie naukowym i publicznym problem braku skutecznej realizacji prawa osób starszych, w tym niesamodzielnych, do zabezpieczenia społecznego i ochrony zdrowia. W artykule szczególną uwagę zwrócono na dwa obszary życia społecznego, w których respektowanie praw podstawowych związanych z godnością osoby ludzkiej jest powiązane z poszanowaniem i respektowaniem praw powiązanych z funkcjonowaniem konkretnej grupy wiekowej – osób powyżej 60. roku życia. Tempo przemian demograficznych nie pozostaje bez wpływu na jakość życia osób starszych. W artykule starano się wskazać na kontekst prawny oraz ukazać problemy, jakie niosą za sobą wspomniane przemiany demograficzne społeczeństwa polskiego, często powiązane ze szczególnymi potrzebami seniorów, a ściślej z brakiem zaspokojenia tych potrzeb. Celem jest przybliżenie społecznego wymiaru respektowania praw osób starszych do wsparcia społecznego w postaci dostępu do instytucji zabezpieczenia społecznego i ochrony zdrowia w okresie pandemii COVID-19. Czy prawa osób starszych do zabezpieczenia społecznego i właściwej ochrony zdrowia są w Polsce respektowane? Czy wybuch pandemii COVID-19 wpłynął na poprawę czy też na pogorszenie sytuacji w Polsce w tym zakresie?

Słowa kluczowe: zabezpieczenie społeczne; osoby starsze; respektowanie praw osób starszych; pandemia